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**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 102-37**

[FMR Change-2014-05; FMR Case 2012-102-2; Docket No. 2012-0007; Sequence No. 1]

RIN 3090-AJ26

**Federal Management Regulation; Donation of Surplus Personal Property**

**AGENCY:** Office of Governmentwide Policy, General Services Administration (GSA).

**ACTION:** Final rule.

**SUMMARY:** The General Services Administration is amending the Federal Management Regulation (FMR) by changing its personal property policy. The changes include the addition of certain veterans organizations as eligible donation recipients, updating and clarifying language regarding the use of Standard Form 97, The United States Government Certificate to Obtain Title to a Vehicle (SF 97), instructing agencies to ensure against unauthorized use of blank copies of SF 97, making minor clarifying edits to existing policies, and removing and reserving certain regulations that are no longer required.

**DATES:** Effective: [Insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Holcombe, Office of Governmentwide Policy, Office of Asset and

Transportation Management (MT), at 202-501-3828 or by e-mail at [Robert.Holcombe@gsa.gov](mailto:Robert.Holcombe@gsa.gov) for clarification of content. For information pertaining to status or publication schedules contact the Regulatory Secretariat at 202-501-4755. Please cite FMR Case 2012-102-2.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

GSA published a proposed rule in the Federal Register at 77 FR 50447 on August 21, 2012. As a result, two comments were received that suggested revisions or clarifications to Federal Acquisition Regulation (FAR) section 31.205-8 concerning whether contractor contributions or donations of contractor-owned property to veterans organizations are allowable costs under a contract. Because that issue is outside the scope of this final rule, both submitters were provided with the procedures for suggesting changes to the FAR. Additionally GSA informed the submitters that Federal property used by contractors is screened for use and donation under the plant clearance processes contained in FAR part 45. Specifically, Federal property is made available for screening by other Federal agencies and eligible donees under FAR section 45.602-3. The proposed new subpart J, "Insuring Donated Property," published in the proposed rule

has been removed from this final rule because GSA determined that, as a general matter, the decision to acquire insurance rests with the recipient of the property. No other substantive changes have been made to that which was published as the proposed rule.

## **B. Changes**

The changes in this final rule include (1) the addition of certain veterans organizations as eligible donation recipients as authorized by 40 U.S.C. 549(c)(3)(C); (2) updating and clarifying language regarding the use of Standard Form 97, The United States Government Certificate to Obtain Title to a Vehicle (SF 97), and instructing agencies to ensure against unauthorized use of blank copies of SF 97; (3) making minor clarifying edits to existing policies; and (4) removing and reserving current FMR sections 102-37.180 and 102-37.185 as screener identification cards are no longer required.

## **C. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity).

E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This final rule is not a significant regulatory action, and therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This final rule is not a major rule under 5 U.S.C. 804.

#### **D. Regulatory Flexibility Act**

This final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. This final rule is also exempt from the Administrative Procedure Act per 5 U.S.C. 553(a)(2) because it applies to agency management and public property.

#### **E. Paperwork Reduction Act**

The Paperwork Reduction Act does not apply because the changes to the FMR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

#### **F. Small Business Regulatory Enforcement Fairness Act**

This final rule is exempt from Congressional review under 5 U.S.C. 801 since it does not substantially affect the rights or obligations of non-agency parties.

**List of Subjects in 41 CFR Part 102-37**

Donation of Surplus Personal Property.

Dated: October 3, 2014

Dan Tangherlini  
Administrator of General Services.

For the reasons set forth in the preamble, GSA is amending 41 CFR part 102-37 as set forth below:

**PART 102-37—DONATION OF SURPLUS PERSONAL PROPERTY**

1. The authority for part 102-37 continues to read as follows:

**Authority:** 40 U.S.C. 549 and 121(c).

2. Amend § 102-37.25 by alphabetically adding the definition "Allocation" to read as follows:

**§ 102-37.25 What definitions apply to this part?**

\* \* \* \* \*

Allocation means the process by which GSA identifies the SASP to receive surplus property on a fair and equitable basis, taking into account the condition of the property as well as the original acquisition cost of the property.

\* \* \* \* \*

3. Amend § 102-37.50 by revising paragraph (c) to read as follows:

**§ 102-37.50 What is the general process for requesting surplus property for donation?**

\* \* \* \* \*

(c) The American National Red Cross should submit requests to GSA as described in subpart G of this part when obtaining property under the authority of 40 U.S.C. 551.

\* \* \* \* \*

4. Amend § 102-37.125 by revising paragraph (a)(3) to read as follows:

**§ 102-37.125 What are some donations that do not require GSA's approval?**

(a) \* \* \*

(3) Donations by the Small Business Administration (SBA) to small disadvantaged businesses under 13 CFR part 124 (although collaboration and agreement between the SBA, SASPs, and GSA is encouraged); and

\* \* \* \* \*

5. Amend § 102-37.175 by—

a. Removing "GSA's system, FEDS)" and adding "GSAXcess)" in its place;

b. Designating the existing paragraph as paragraph (a); and

c. Adding paragraph (b).

The addition reads as follows:

**§ 102-37.175 How does a SASP find out what property is potentially available for donation?**

\* \* \* \* \*

(b) For the SASP (or a SASP's representative) to perform onsite screening, the screener must coordinate the onsite visit and screening with the individual holding

agency or organization. The screener should ascertain the identification required and any special procedures for access to the facility or location.

**§§ 102-37.180 and 102-37.185 [Removed and Reserved]**

6. Remove and reserve §§ 102-37.180 and 102-37.185.

7. Amend § 102-37.380 by adding paragraph (d) to read as follows:

**§ 102-37.380 What is the statutory authority for donations of surplus Federal property made under this subpart?**

\* \* \* \* \*

(d) Section 549(c)(3)(C) of title 40, United States Code authorizes SASPs to donate property to veterans organizations, for purposes of providing services to veterans (as defined in section 101 of title 38). Eligible veterans organizations are those whose:

(1) Membership comprises substantially veterans;  
and

(2) Representatives are recognized by the Secretary of Veterans Affairs under section 5902 of title 38.

8. Amend §102-37.420 by adding a second sentence to read as follows:

**§ 102-37.420 May a SASP grant conditional eligibility to applicants who would otherwise qualify as eligible donees, but have been unable to obtain approval, accreditation, or**



**licensing because they are newly organized or their facilities are not yet constructed?**

\* \* \* Conditional eligibility may be granted for a limited and reasonable time, not to exceed one year.

9. Amend § 102-37.430 by adding a third sentence to read as follows:

**§ 102-37.430 What property can a SASP make available to a donee with conditional eligibility?**

\* \* \* If property is provided to the donee with conditional eligibility, and the conditional eligibility lapses (see § 102-37.420), the property must be returned to the SASP for redistribution or disposal.

10. Add Subpart I, consisting of §§ 102-37.585 through 102-37.600, to read as follows:

**Subpart I—Transfer of Vehicle Title to a Donee**

Sec.

102-37.585	In transferring donated surplus vehicles, what is the responsibility of the holding agency?
102-37.590	In transferring donated surplus vehicles, what is the responsibility of the SASP?
102-37.595	When transferring donated surplus vehicles, what is the responsibility of the donee?
102-37.600	When does title to a surplus donated vehicle change hands?

**Subpart I—Transfer of Vehicle Title to a Donee**

**§ 102-37.585 In transferring donated surplus vehicles, what is the responsibility of the holding agency?**

(a) The holding agency is responsible for preparing Standard Form 97, The United States Government Certificate to Obtain Title to a Vehicle (SF 97) upon notification by GSA that a donee has been identified. The SF 97 may be prepared by GSA if mutually agreed upon by the holding agency and GSA. The holding agency is designated as the "transferor."

(b) If the holding agency authorizes or requires any other entity, including a contractor or grantee, to complete this SF 97, the holding agency must first ensure compliance with the Paperwork Reduction Act.

(c) The SF 97 is a serially numbered, controlled form, stock number 7540-00-634-4047, which can be obtained by executive agencies from GSA Global Supply or online at [www.gsaglobalsupply.gsa.gov](http://www.gsaglobalsupply.gsa.gov). Proper precautions shall be exercised by the agency to prevent blank copies of the SF 97 from being obtained by unauthorized persons.

**§ 102-37.590 In transferring donated surplus vehicles, what is the responsibility of the SASP?**

The SASP is responsible for facilitating the transfer of the surplus vehicle to the donee in accordance with this part. The SASP should not sign the SF 97 as "transferee" unless the SASP is the donee.

**§ 102-37.595 When transferring donated surplus vehicles,  
what is the responsibility of the donee?**

The donee is responsible for processing the SF 97 in accordance with state licensing and titling authorities. The donee signs the SF 97 as "transferee" upon receipt of the surplus motor vehicle. The donee is responsible for notifying the SASP if a SF 97 is not provided by the Government.

**§ 102-37.600 When does title to a surplus donated vehicle  
change hands?**

Title to the vehicle rests with the holding agency until the SF 97 is signed by the donee upon receipt of the surplus motor vehicle. (If applicable under the terms of the donation, the title will be conditional until the end of the period of restriction).

11. Amend Appendix C to part 102.37 by alphabetically adding the definition of "Veterans Organizations" to read as follows:

**Appendix C to Part 102-37-Glossary of Terms for Determining  
Eligibility of Public Agencies and Nonprofit Organizations**

\* \* \* \* \*

Veterans Organizations means organizations eligible to receive Federal surplus property for purposes of providing services to veterans under 40 U.S.C. 549(c)(3)(C).

Eligible veterans organizations are those whose (1) membership comprises substantially veterans (as defined under 38 U.S.C. 101); and (2) representatives are recognized by the Secretary of Veterans Affairs under 38 U.S.C. 5902. The Department of Veterans Affairs maintains a searchable website of recognized organizations. The address is

<http://www.va.gov/ogc/apps/accreditation/index.asp>.

**[Billing Code 6820-14]**

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